IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

TUESDAY, THE TWENTY FIRST DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

and
THE HON'BLE MR JUSTICE P.LAKSHMANA REDDY

WRIT APPEAL NO : 1131 of 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 26/02/2004 in WP NO : 16663 OF 1993 on the file of the High Court.)

Between:

1 Chairman-cum- Managing Director
The Jute Corporation of India Shakespeare Sarani, Calcutta-79
2 The Regional Manager, Jute Corporation of India, M.G.Road

Vizianagaram.
3 The Managar, Dept., of Purchasing Centre, Jute corporation of India,

Rajam, Srikakulam Dist.
4 The Senior Inspector, Sub-Centre, Jute corporation of India, Ponduru,

Srikakulam Dist.

..... APPELLANTS

AND

Behara Nageswara Rao son of late Satyanarayana
Rajam, Srikakulam Dist

.....RESPONDENT

Counsel for the Appellants: MR.V.VENKATARAMANA

Counsel for the Respondents : MR.M.V.S.SURESH KUMAR

The Court made the following :

J U D G M E N T : (per the Hon'ble Mrs.Justice T.Meena Kumari)

The appeal is directed against the order dated 26-02-2004, made in W.P.No.16663 of 1993 rendered by a learned Single Judge of this Court.

The appellants-corporation herein are the respondents and the respondent herein is the writ petitioner in W.P.No.16663 of 1993. For the purpose of convenience, the parties are referred to as arrayed in the writ petition.

It is stated in the affidavit filed in support of the writ petition that the petitioner passed X class and joined as Casual Guard on 26-12-1976 in the appellant-corporation, in Departmental Purchasing Centre, Jute Corporation of India, Rajam, on daily wage basis at the rate of Rs.7/-per day and was continued till 09-03-1977. It is further stated that the petitioner was again appointed on 12-10-1979 on daily wage basis and was continued upto 26-07-1983 and thereafater his services were terminated by paying compensation. Subsequently, in the respondent-corporation, he worked as Reliever Casual Guard till 15-12-1984 and again from 17-12-1984 to 31-07-1985. While so, on 12-10-1985, he was again appointed as Casual Guard at Penduru Sub-Centre on daily wage of Rs.6.50 plus Rs.1/- field allowance and since then, he has been working as casual guard. However, in the year 1985, a seniority list of casual guards, who were working on temporary basis, was prepared and the petitioner's name was found at serial No.8 in the said list. At that time, he had completed 1873 working days. Subsequently, in the year 1987, another seniority list was prepared and in the said list, the petitioner's name was found at serial No.5 and by that time, the petitioner completed 2426 working days and as on the date of filing of the writ petition the petitioner completed 4876 working days with the corporation. In spite of the fact that the petitioner put a long service in the corporation, his services were not regularized. The case of the petitioner is that several employees who are junior to him were absorbed into the service in the year 1987, of which some persons' names were not included in the list as they do not possess the minimum educational qualification. Subsequently also without considering the legitimate right of the petitioner, the authorities have appointed the persons of their choice as and when the vacancies arise. In that view of the matter, the petitioner made several representations to the authorities seeking regularization of his services as per the seniority, but in vain. It is also stated that as on to-day also there are existing vacancies in the respondents-corporation in Purchase Centre situated at Panduru, Rajam, Hirasamudram and Vizianagaram. At this juncture, the petitioner also would submit that in case, if the authorities considered his case and regularized his services in the year 1987 along with others, he could have been entitled for the higher category of Junior Inspector Post. The petitioner filed the writ petition with the above prayer alleging that the said action of the

respondents-corporation in not regularizing his services is illegal and arbitrary.

A learned Single Judge of this Court, on a perusal of the material available on record, disposed of the writ petition directing the respondents to consider the case of the petitioner for appointment on regular basis from the date when his juniors were appointed or at-least from the date on which a vacancy has arisen. Being aggrieved of the same, the respondents-corporation preferred the present appeal.

Heard both sides.

The first and foremost point argued by the learned counsel for the respondents-corporation is that ever since 1982, there was a ban in recruitment of personnel in the corporation and therefore, no fresh recruitments had taken place as per the Corporation Rules. It is also submitted by the learned counsel that there were no such instances as stated by the petitioner that by keeping aside his case, the services of his juniors were regularized. The petitioner was never appointed against any regular vacancy, therefore, regularization of petitioner's services with retrospective effect does not arise. Therefore, the order impugned is unsustainable.

We have perused the material available on record.

It is not disputed by both the parties about the appointment of the petitioner on daily wage basis in the year 1976 with break of service and as a casual guard on temporary basis and that as on the date of filing of the writ petition, the writ petitioner completed 4876 working days i.e. nearly 18 years of service. Therefore, admittedly, for all these years, continuously, the writ petitioner has been working with the respondents-corporation. Therefore, taking into account that there was no immediate threat of termination of the services of the petitioner, the learned Single Judge of this Court rightly directed the appellants-corporation to consider the case of the petitioner for appointment on regular basis from the date when his juniors were appointed or at lest from the date on which a vacancy has arisen.

Viewed from any angle, we do not see any reason to interfere with the order challenged in this appeal. Therefore, we are of the opinion that the order of the learned Single Judge of this Court is sustainable and the appeal is liable to be dismissed.

Accordingly, the writ appeal is dismissed confirming the order passed by the learned Single Judge of this Court. No costs.

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T.MEENA KUMARI, J

Dt. 21-06-2005

P.LAKSHMANA REDDY, J

To,

1 Chairman-cum- Managing Director
The Jute Corporation of India Shakespeare Sarani, Calcutta-79
2 The Regional Manager, Jute Corporation of India, M.G.Road

Vizianagaram.
3 The Managar, Dept., of Purchasing Centre, Jute corporation of India,

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